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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/428,363	10/27/1999	FREDERICK MURRAY BURG	113571	4560
26652	7590	08/31/2004	EXAMINER	
AT&T CORP. P.O. BOX 4110 MIDDLETOWN, NJ 07748			LIN, KENNY S	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/428,363

Applicant(s)

BURG ET AL.

Examiner

Kenny Lin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-15 and 18-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-4, 7-15 and 18-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-4, 7-15 and 18-27 are presented for examination.

**Claim Rejections - 35 USC § 103**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 7-15 and 18-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goss et al (hereinafter Goss), U.S. Patent Number 6,493,447, in view of Morganstein et al (hereinafter Morganstein), U.S. Patent Number Re. 37,001.

4. Goss and Morganstein were cited in the previous office action.

5. As per claims 1 and 13, Goss taught the invention as claimed including a method/apparatus for setting up a call between a subscriber premises and a call center (col.1, lines 62-65) comprising:

- a. Receiving a call set up request at a service control point/service node (control server) from a gateway responsive to the subscriber premises (figs.1-2, 6, col.1, lines 62-65, col.3, lines 28-29, col.4, lines 13-22, 34-46, col.6, lines 16-27, 56-65, col.22, lines 53-64), said gateway being

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connected to the subscriber premises via a data network (col.22, lines 53-64);

- b. Sending an availability query (158, fig.6, Wait # minutes before contacting me, col.13, lines 7-15) from the service control point/service node to the call center via the data network (col.5, lines 63-66, col.6, lines 16-27, 56-65, col.7, lines 1-7, col.13, lines 7-15);
- c. Preparing a call set up instruction at the service control point/service node for setting up the call initiated by the call center to the subscriber premises if an availability reply is received at the service control point/service node from the call center (col.2, lines 2-8, 12-13, col.6, lines 16-24, 56-65, col.7, lines 1-6, 26-29, 59-64, col.8, lines 11-18, 35-42); and
- d. Estimating, at the service control point/service node, a time-in-queue and preparing a call queue status message for delivery to the gateway from the service control point/service node if an unavailability reply is received before the availability reply is received from the call center (col.1, lines 19-22, col.2, lines 14-16, col.7, lines 1-10, col.9, lines 13-19, col.23, lines 42-45, 66-67).

6. Goss further taught to use timer in queue to determine whether the request will be rejected or not according to the length of time the user request is in queue, which substantially determines the time a subscriber has been waiting (col.23, lines 42-45).

Goss did not specifically teach to estimate a time-in-queue for the call center to become available to initiate the call. However, it would have been obvious to one of ordinary

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skill in the art at the time the invention was made to modify Goss' system to use the timer in queue taught by Goss for determining whether the request will be rejected or not to also estimate a time-in-queue to estimate how long the subscriber has been waiting (col.23, lines 42-45). Morganstein also taught a software timer to estimate the time-in-queue (col.5, lines 18-20) and prepare a call queue status message (col.2, lines 15-18, col.5, lines 26-39, col.9, lines 10-12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Goss and Morganstein because Morganstein's teaching of determining time-in-queue helps Goss' system to show how long the subscriber has been waiting in queue for help.

7. As per claims 2 and 14, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught that a call path between the call center and the subscriber premises is provided (col.3, lines 65-67, col.4, lines 23-26).

8. As per claim 3, Goss and Morganstein taught the invention substantially as claimed in claim 2. Goss further taught that a network switch provides the call path in response to the call set up instruction (col.2, lines 2-8, 12-13, col.7, lines 59-64, col.8, lines 11-18, 35-45, col.22, lines 65-67, col.23, lines 1-4).

9. As per claims 4 and 15, Goss and Morganstein taught the invention substantially as claimed in claims 2 and 14. Goss further taught that a call to the subscriber premises is placed when providing the call path (col.2, lines 2-8, 12-13, col.7, lines 59-64, col.8, lines 11-18, 35-45, col.22, lines 65-67, col.23, lines 1-4).

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10. As per claims 7 and 18, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught to sending an availability query (158, fig.6, Wait # minutes before contacting me, col.13, lines 7-15) from the service control point/service node to the call center via the data network (col.5, lines 63-66, col.6, lines 16-27, 56-65, col.7, lines 1-7, col.13, lines 7-15). Goss did not specifically teach to send a call queue status message. Morganstein taught to send the call queue status message from the service control point/service node to the gateway for delivery to the subscriber premises (col.2, lines 15-18, col.3, lines 64-67, col.5, lines 26-39, col.9, lines 10-12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Goss and Morganstein because Morganstein's teaching of determining time-in-queue helps Goss' system to show how long the subscriber has been waiting in queue for help.

11. As per claims 8 and 19, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught to receive, at the service control point/service node, an agent available reply from the call center (col.7, lines 1-6, 59-64, col.8, lines 11-18, 35-42) and to prepare of an updated call queue status message for delivery to the gateway (col.9, lines 30-46).

12. As per claims 9 and 20, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught to prepare, at the service control point/service node, an updated call queue status message for delivery to the gateway after

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receiving the availability reply (col.7, lines 1-6, 59-64, col.8, lines 11-18, 35-42, col.9, lines 30-46).

13. As per claims 10 and 21, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught that the subscriber premises include a computer for communication with the gateway and a telephone for communicating with the call center (44, 46, fig. 1, col.5, lines 10-13).

14. As per claims 11-12 and 22-23, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught to prepare, at the service control point/service node, a call connection message related to the call being set up between the call center and the subscriber premises and sending the call connection message to the gateway for delivery to the subscriber premises (col.7, lines 1-6, 59-64, col.8, lines 11-18, 35-42, col.14, lines 30-37, 40-45).

15. As per claims 24 and 26, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught that the data network is Internet (col.1, lines 62-65).

16. As per claims 25 and 27, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught to utilize a telephone at the subscriber premises for enabling communication between a user at the subscriber premises and an available agent at the call center (col.2, lines 2-8, 11-13).



***Response to Arguments***

17. Applicant's arguments filed 6/29/2004 have been fully considered but they are not persuasive.

18. In the remark, applicant argued that (1) The cited Goss and Morganstein references do not disclose or suggest the use of SCP/SN, an intermediary node, to perform the functions of receiving availability/unavailability messages and estimating time-in-queue" information for insertion in a "call queue status message".

19. Examiner traverse the argument that:

As to point (1), Goss taught a control server as an intermediary node in performing service functions. In combination with Morganstein, the references taught to perform the functions of receiving availability/unavailability messages and estimating time-in-queue" information for insertion in a "call queue status message" at the control server. Examiner has cited specific columns and lines in pointing out the teaching of control server in Goss reference in the above rejection.

Although the applicant pointed out that the particular use of the SCP/SN in the specification at page 8, it is noted that the features upon which applicant relies (i.e., particular use of the SCP/SN stated in page 8 of the specification) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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*Conclusion*

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lindeberg et al, US 6,094,479.

Henningson et al, US 6,301,350.

21. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (703) 305-0438.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksl  
August 30, 2004

*Wm. J. F.*  
8/30/04